

House Bill 1385 (AS PASSED HOUSE AND SENATE)

By: Representatives Heard of the 104th, Ehrhart of the 36th, Coan of the 101st, Dodson of the 75th, and Forster of the 3rd

A BILL TO BE ENTITLED

AN ACT

1 To amend Part 2 of Article 1 of Chapter 2 of Title 8 of the Official Code of Georgia
2 Annotated, relating to state building, plumbing, and electrical codes, so as to provide for the
3 employment of private professional providers to perform building plan reviews and
4 inspections when the local jurisdiction cannot timely perform such services; to provide a
5 definition; to provide for the qualifications of such persons; to provide for the manner of such
6 reviews and inspections; to provide for certain insurance requirements; to provide for the
7 manner of submitting reports; to provide for the issuance of notices of deficiencies to the
8 applicants and time for curing such deficiencies; to provide for the issuance of permits under
9 certain conditions; to provide for appeals; to provide for applicability; to provide for certain
10 immunities; to prohibit adoption of more stringent standards by local jurisdictions; to provide
11 for exceptions; to amend Chapter 2 of Title 25 of the Official Code of Georgia Annotated,
12 relating to regulation of fire and other hazards to persons and property generally, so as to
13 provide for the employment of private professional providers to perform building plan
14 reviews when the state fire marshal, local fire marshal, state inspector, or designated code
15 official cannot timely perform such services; to provide a definition; to provide for the
16 qualifications of such persons; to provide for the manner of such reviews and inspections;
17 to provide for certain insurance requirements; to provide for the manner of submitting
18 reports; to provide for the issuance of notices of deficiencies to the applicants and time for
19 curing such deficiencies; to provide for the issuance of permits under certain conditions; to
20 provide for appeals; to provide for applicability; to provide for certain immunities; to prohibit
21 adoption of more stringent standards by local jurisdictions; to provide for other related
22 matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

24 **SECTION 1.**

H. B. 1385

1 Part 2 of Article 1 of Chapter 2 of Title 8 of the Official Code of Georgia Annotated, relating
2 to state building, plumbing, and electrical codes, is amended by striking subsection (g) of
3 Code Section 8-2-26, relating to enforcement of codes generally, and inserting in lieu thereof
4 a new subsection (g) to read as follows:

5 "(g)(1) If a governing authority of a county or municipality cannot provide review of the
6 documents intended to demonstrate that the structure to be built is in compliance with the
7 Georgia State Minimum Standard Codes most recently adopted by the Department of
8 Community Affairs and any locally adopted ordinances and amendments to such codes
9 within 30 business days of receiving a written application for permitting in accordance
10 with the code official's plan submittal process or inspection services within two business
11 days of receiving a valid written request for inspection, then, in lieu of plan review or
12 inspection by ~~inspectors or other~~ personnel employed by such governing authority, any
13 person, firm, or corporation engaged in a construction project which requires plan review
14 or inspection shall have the option of retaining, at its own expense, a private professional
15 provider to provide the required plan review or inspection. As used in this subsection,
16 the term 'private professional provider' means a professional engineer who holds a
17 certificate of registration issued under Chapter 15 of Title 43 or a professional architect
18 who holds a certificate of registration issued under Chapter 4 of Title 43, and who is not
19 an employee of or otherwise affiliated with or financially interested in such the person,
20 firm, or corporation, to provide the required inspection engaged in the construction
21 project to be reviewed or inspected. The local governing authority shall advise the permit
22 applicant in writing if requested by the applicant at the time the complete submittal
23 application for a permit in accordance with the code official's plan submittal process is
24 received that the local governing authority intends to complete the required plan review
25 within the time prescribed by this paragraph or that the applicant may immediately secure
26 the services of a private professional provider to complete the required plan review
27 pursuant to this subsection. The plan submittal process shall include those procedures
28 and approvals required by the local jurisdiction before plan review can take place. If the
29 local governing authority states its intent to complete the required plan review within the
30 time prescribed by this paragraph, the applicant shall not be authorized to use the services
31 of a private professional provider as provided in this subsection. The permit applicant
32 and the local governing authority may agree by mutual consent to extend the time period
33 prescribed by this paragraph for plan review if the characteristics of the project warrant
34 such an extension. However, if the local governing authority states its intent to complete
35 the required plan review within the time prescribed by this paragraph, or any extension
36 thereof mutually agreed to by the applicant and the governing authority, and does not

1 permit the applicant to use the services of a private professional provider and the local
2 governing authority fails to complete such plan review in the time prescribed by this
3 paragraph, or any extension thereof mutually agreed to by the applicant and the governing
4 authority, the local governing authority shall issue the applicant a project initiation
5 permit. The local governing authority shall be allowed to limit the scope of a project
6 initiation permit and limit the areas of the site to which the project initiation permit may
7 apply but shall permit the applicant to begin work on the project, provided that portion
8 of the initial phase of work is compliant with applicable codes, laws, and rules. If a full
9 permit is not issued for the portion requested for permitting, then the governing authority
10 shall have an additional 20 business days to complete the review and issue the full permit.
11 If the plans submitted for permitting are denied for any deficiency, the time frames and
12 process for resubmittal shall be governed by subparagraphs (C) through (E) of paragraph
13 (7) of this subsection. On or before July 1, 2007, the Board of Natural Resources shall
14 adopt rules and regulations governing the review of erosion and sedimentation control
15 plans under Part 9 of Chapter 7 of Title 12 to establish appropriate time frames for the
16 submission and review of revised plan submittals where a deficiency or deficiencies in
17 the submitted plans have been identified by the governing authority.

18 (2) Any plan review or inspection conducted by a ~~registered private~~ professional
19 ~~engineer provider~~ shall be no less extensive than ~~an inspection plan reviews or~~
20 inspections conducted by a county or municipal ~~inspector~~ personnel.

21 (3) The person, firm, or corporation retaining a ~~registered private~~ professional ~~engineer~~
22 provider to conduct a plan review or an inspection shall be required to pay to the county
23 or municipality which requires the plan review or inspection the same ~~permit~~ regulatory
24 fees and charges which would have been required had the plan review or inspection been
25 conducted by a county or municipal inspector.

26 (4) A private professional provider performing plan reviews under this subsection shall
27 review construction plans to determine compliance with the Georgia State Minimum
28 Standard Codes most recently adopted by the Department of Community Affairs and any
29 locally adopted ordinances and amendments to such codes. Upon determining that the
30 plans reviewed comply with the applicable codes, such private professional provider shall
31 prepare an affidavit or affidavits on a form adopted by the Department of Community
32 Affairs certifying under oath that the following is true and correct to the best of such
33 private professional provider's knowledge and belief and in accordance with the
34 applicable professional standard of care:

1 (A) The plans were reviewed by the affiant who is duly authorized to perform plan
2 review pursuant to this subsection and who holds the appropriate license or
3 certifications and insurance coverage stipulated in this subsection;

4 (B) The plans comply with the Georgia State Minimum Standard Codes most recently
5 adopted by the Department of Community Affairs and any locally adopted ordinances
6 and amendments to such codes; and

7 (C) The plans submitted for plan review are in conformity with plans previously
8 submitted to obtain governmental approvals required in the plan submittal process and
9 do not make a change to the project reviewed for such approvals.

10 (5) All private professional providers providing plan review or inspection services
11 pursuant to this subsection shall secure and maintain insurance coverage for professional
12 liability (errors and omissions) insurance. The limits of such insurance shall be not less
13 than \$1 million per claim and \$1 million in aggregate coverage. Such insurance may be
14 a practice policy or project-specific coverage. If the insurance is a practice policy, it shall
15 contain prior acts coverage for the private professional provider. If the insurance is
16 project-specific, it shall continue in effect for two years following the issuance of the
17 certificate of final completion for the project. A local enforcement agency, local building
18 official, or local government may establish, for private professional providers working
19 within that jurisdiction, a system of registration listing the private professional providers
20 within their areas of competency and verifying compliance with the insurance
21 requirements of this subsection.

22 ~~(4)~~(6) ~~The registered private professional engineer provider~~ shall be empowered to
23 perform any plan review or inspection required by the governing authority of any county
24 or municipality, including, but not limited to, inspections for footings, foundations,
25 concrete slabs, framing, electrical, plumbing, heating ventilation and air conditioning
26 (HVAC), or any and all other inspections necessary or required for the issuance of a
27 building permit or certificate of occupancy by the governing authority of any county or
28 municipality, provided that the plan review or inspection is within the scope of such
29 ~~engineer's branch of engineering expertise~~ private professional provider's area of
30 competency. Nothing in this Code section shall authorize any private professional
31 provider to issue a certificate of occupancy. Only a local governing authority shall be
32 authorized to issue a certificate of occupancy.

33 ~~(5)(7)(A)~~ The registered permit applicant shall submit a copy of the private
34 professional engineer shall submit a copy of his or her inspection provider's plan
35 review report to the county or municipality. Such plan review report shall include at
36 a minimum all of the following:

1 (i) The affidavit of the private professional provider required pursuant to this
2 subsection;

3 (ii) The applicable fees; and

4 (iii) Any documents required by the local official and any other documents necessary
5 to determine that the permit applicant has secured all other governmental approvals
6 required by law.

7 (B) No more than 30 business days after receipt of a permit application and the
8 affidavit from the private professional provider required pursuant to this subsection, the
9 local building official shall issue the requested permit or provide written notice to the
10 permit applicant identifying the specific plan features that do not comply with the
11 applicable codes, as well as the specific code chapters and sections. If the local
12 building official does not provide a written notice of the plan deficiencies within the
13 prescribed 30 day period, the permit application shall be deemed approved as a matter
14 of law and the permit shall be issued by the local building official on the next business
15 day.

16 (C) If the local building official provides a written notice of plan deficiencies to the
17 permit applicant within the prescribed 30 day period, the 30 day period shall be tolled
18 pending resolution of the matter. To resolve the plan deficiencies, the permit applicant
19 may elect to dispute the deficiencies pursuant to this subsection or to submit revisions
20 to correct the deficiencies.

21 (D) If the permit applicant submits revisions to address the plan deficiencies previously
22 identified, the local building official shall have the remainder of the tolled 30 day
23 period plus an additional five business days to issue the requested permit or to provide
24 a second written notice to the permit applicant stating which of the previously identified
25 plan features remain in noncompliance with the applicable codes, with specific
26 reference to the relevant code chapters and sections. If the local building official does
27 not provide the second written notice within the prescribed time period, the permit shall
28 be issued by the local building official on the next business day. In the event that the
29 revisions required to address the plan deficiencies or any additional revisions submitted
30 by the applicant require that new governmental approvals be obtained, the applicant
31 shall be required to obtain such approvals before a new plan report can be submitted.

32 (E) If the local building official provides a second written notice of plan deficiencies
33 to the permit applicant within the prescribed time period, the permit applicant may elect
34 to dispute the deficiencies pursuant to this subsection or to submit additional revisions
35 to correct the deficiencies. For all revisions submitted after the first revision, the local
36 building official shall have an additional five business days to issue the requested

permit or to provide a written notice to the permit applicant stating which of the previously identified plan features remain in noncompliance with the applicable codes, with specific reference to the relevant code chapters and sections.

~~(6)~~(8) Upon submission by the registered private professional engineer provider of a copy of his or her inspection report to the local governing authority, said local governing authority shall be required to accept the inspection of the registered private professional engineer provider without the necessity of further inspection or approval by the inspectors or other personnel employed by the local governing authority unless said governing authority has notified the registered private professional engineer provider, within two business days after the submission of the inspection report, that it finds the report incomplete or the inspection inadequate and has provided the registered private professional engineer provider with a written description of the deficiencies and specific code requirements that have not been adequately addressed.

~~(7)~~(9) A local governing authority may provide for the prequalification of registered private professional engineers providers who may perform plan reviews or inspections pursuant to this subsection. No ordinance implementing prequalification shall become effective until notice of the governing authority's intent to require prequalification and the specific requirements for prequalification have been advertised in the newspaper in which the sheriff's advertisements for that locality are published. The ordinance implementing prequalification shall provide for evaluation of the qualifications of a registered private professional engineer provider only on the basis of the engineer's private professional provider's expertise with respect to the objectives of the inspection this subsection, as demonstrated by the engineer's private professional provider's experience, education, and training. Such ordinance may require a private professional provider to hold additional certifications, provided that such certifications are required by ordinance for plan review personnel currently directly employed by such local governing authority.

~~(8)~~(10) Nothing in this subsection shall be construed to limit any public or private right of action designed to provide protection, rights, or remedies for consumers.

(11) This subsection shall not apply to hospitals, ambulatory health care centers, nursing homes, jails, penal institutions, airports, buildings or structures that impact national or state homeland security, or any building defined as a high-rise building in the State Minimum Standards Code; provided, however, that interior tenant build-out projects within high-rise buildings are not exempt from this subsection.

(12) If the local building official determines that the building construction or plans do not comply with the applicable codes, the official may deny the permit or request for a

1 certificate of occupancy or certificate of completion, as appropriate, or may issue a
2 stop-work order for the project or any portion thereof as provided by law, after giving
3 notice to the owner, the architect of record, the engineer of record, or the contractor of
4 record and by posting a copy of the order on the site of the project and opportunity to
5 remedy the violation within the time limits set forth in the notice, if the official
6 determines noncompliance with state or local laws, codes, or ordinances, provided that:

7 (A) The local building official shall be available to meet with the private professional
8 provider within two business days to resolve any dispute after issuing a stop-work order
9 or providing notice to the applicant denying a permit or request for a certificate of
10 occupancy or certificate of completion; and

11 (B) If the local building official and the private professional provider are unable to
12 resolve the dispute or meet within the time required by this Code section, the matter
13 shall be referred to the local enforcement agency's board of appeals, if one exists,
14 which shall consider the matter not later than its next scheduled meeting. Any decisions
15 by the local official, if there is no board of appeals, may be appealed to the Department
16 of Community Affairs as provided in this chapter. The Department of Community
17 Affairs shall develop rules and regulations which shall establish reasonable time frames
18 and fees to carry out the provisions of this paragraph.

19 (13) The local government, the local building official, and local building code
20 enforcement personnel and agents of the local government shall be immune from liability
21 to any person or party for any action or inaction by an owner of a building or by a private
22 professional provider or its duly authorized representative in connection with building
23 code plan review and inspection services by private professional providers as provided
24 in this subsection.

25 (14) No local enforcement agency, local code official, or local government shall adopt
26 or enforce any rules, procedures, policies, qualifications, or standards more stringent than
27 those prescribed in this subsection. This subsection shall not preempt any local laws,
28 rules, or procedures relating to the plan submittal process of local governing authorities.

29 (15) Nothing in this subsection shall limit the authority of the local code official to issue
30 a stop-work order for a building project or any portion of such project, which may go into
31 effect immediately as provided by law, after giving notice and opportunity to remedy the
32 violation, if the official determines that a condition on the building site constitutes an
33 immediate threat to public safety and welfare. A stop work order issued for reasons of
34 immediate threat to public safety and welfare shall be appealable to the local enforcement
35 agency's board of appeals, if one exists, in the manner provided by applicable law. Any

1 decisions by the local official, if there is no board of appeals, may be appealed to the
2 Department of Community Affairs as provided in this chapter.

3 (16) When performing building code plan reviews or inspection services, a private
4 professional provider is subject to the disciplinary guidelines of the applicable
5 professional licensing board with jurisdiction over such private professional provider's
6 license or certification under Chapters 4 and 15 of Title 43, as applicable. Any complaint
7 processing, investigation, and discipline that arise out of a private professional provider's
8 performance of building code plan reviews or inspection services shall be conducted by
9 the applicable professional licensing board. Notwithstanding any disciplinary rules of the
10 applicable professional licensing board with jurisdiction over such private professional
11 provider's license or certification under Chapters 4 and 15 of Title 43, any local building
12 official may decline to accept building code plan reviews or inspection services submitted
13 by any private professional provider who has submitted multiple reports which required
14 revisions due to negligence, noncompliance, or deficiencies.

15 (17) Nothing in this subsection shall apply to inspections exempted in Code Section
16 8-2-26.1."

17 **SECTION 2.**

18 Chapter 2 of Title 25 of the Official Code of Georgia Annotated, relating to regulation of fire
19 and other hazards to persons and property generally, is amended by striking subsection (a)
20 of Code Section 25-2-14, relating to requirement, issuance, etc., of building permits and
21 certificates of occupancy for buildings presenting special hazards to persons or property, and
22 inserting in lieu thereof a new subsection (a) to read as follows:

23 "(a)(1) Plans and specifications for all proposed buildings which come under
24 classification in paragraph (1) of subsection (b) of Code Section 25-2-13 and which come
25 under the jurisdiction of the office of the Commissioner pursuant to Code Section
26 25-2-12 shall be submitted to and receive approval by either the state fire marshal, the
27 proper local fire marshal, or state inspector before any state, municipal, or county
28 building permit may be issued or construction started. All such plans and specifications
29 submitted as required by this subsection shall be accompanied by a fee in the amount
30 provided in Code Section 25-2-4.1 and shall bear the seal and Georgia registration
31 number of the drafting architect or engineer or shall otherwise have the approval of the
32 Commissioner.

33 (2)(A) If the state fire marshal, the proper local fire marshal, state inspector, or
34 designated code official cannot provide plan review within 30 business days of
35 receiving a written application for permitting in accordance with the code official's plan

1 submittal process, then, in lieu of plan review by personnel employed by such
2 governing authority, any person, firm, or corporation engaged in a construction project
3 which requires plan review, regardless if the plan review is required by subsection (a)
4 of this Code section or by local county or municipal ordinance, shall have the option of
5 retaining, at its own expense, a private professional provider to provide the required
6 plan review. As used in this paragraph, the term 'private professional provider' means
7 a professional engineer who holds a certificate of registration issued under Chapter 15
8 of Title 43 or a professional architect who holds a certificate of registration issued
9 under Chapter 4 of Title 43, who is not an employee of or otherwise affiliated with or
10 financially interested in the person, firm, or corporation engaged in the construction
11 project to be reviewed.

12 (B) The state fire marshal, the proper local fire marshal, state inspector, or designated
13 code official shall advise the permit applicant at the time the complete submittal
14 application for a permit in accordance with the code official's plan submittal process
15 is received that the state fire marshal, the proper local fire marshal, state inspector, or
16 designated code official intends to complete the required plan review within the time
17 prescribed by this paragraph or that the applicant may immediately secure the services
18 of a private professional provider to complete the required plan review pursuant to this
19 subsection. The plan submittal process shall include those procedures and approvals
20 required by the local jurisdiction before plan review can take place. If the state fire
21 marshal, the proper local fire marshal, state inspector, or designated code official states
22 its intent to complete the required plan review within the time prescribed by this
23 paragraph, the applicant shall not be authorized to use the services of a private
24 professional provider as provided in this subsection. The permit applicant and the state
25 fire marshal, the proper local fire marshal, state inspector, or designated code official
26 may agree by mutual consent to extend the time period prescribed by this paragraph for
27 plan review if the characteristics of the project warrant such an extension. However,
28 if the state fire marshal, the proper local fire marshal, state inspector, or designated code
29 official states its intent to complete the required plan review within the time prescribed
30 by this paragraph, or any extension thereof mutually agreed to by the applicant and the
31 state fire marshal, the proper local fire marshal, state inspector, or designated code
32 official and does not permit the applicant to use the services of a private professional
33 provider and the state fire marshal, the proper local fire marshal, state inspector, or
34 designated code official fails to complete such plan review in the time prescribed by
35 this paragraph, or any extension thereof mutually agreed to by the applicant and the
36 state fire marshal, the proper local fire marshal, state inspector, or designated code

1 official, the state fire marshal, the proper local fire marshal, state inspector, or
2 designated code official shall issue the applicant a project initiation permit to allow the
3 applicant to begin work on the project, provided that portion of the initial phase of work
4 is compliant with applicable codes, laws, and rules. If a full permit is not issued for
5 the portion requested for permitting, then the state fire marshal, the proper local fire
6 marshal, state inspector, or designated code official shall have an additional 20 business
7 days to complete the review and issue the full permit. If the plans submitted for
8 permitting are denied for any deficiency, the time frames and process for resubmittal
9 shall be governed by divisions (2)(H)(iii) through (2)(H)(v) of this subsection.

10 (C) Any plan review or inspection conducted by a private professional provider shall
11 be no less extensive than plan reviews or inspections conducted by state, county, or
12 municipal personnel responsible for review of plans for compliance with the state's
13 minimum fire safety standards and, where applicable, the state's minimum accessibility
14 standards.

15 (D) The person, firm, or corporation retaining a private professional provider to
16 conduct a plan review shall be required to pay to the state fire marshal, the proper local
17 fire marshal, state inspector, or designated code official which requires the plan review
18 the same regulatory fees and charges which would have been required had the plan
19 review been conducted by the state fire marshal, the proper local fire marshal, state
20 inspector, or designated code official.

21 (E) A private professional provider performing plan reviews under this subsection shall
22 review construction plans to determine compliance with the state's minimum fire safety
23 standards in effect which were adopted pursuant to this chapter and, where applicable,
24 the state's minimum accessibility standards adopted pursuant to Chapter 3 of Title 30.
25 Upon determining that the plans reviewed comply with the applicable codes and
26 standards as adopted, such private professional provider shall prepare an affidavit or
27 affidavits on a form prescribed by the Safety Fire Commissioner certifying under oath
28 that the following is true and correct to the best of such private professional provider's
29 knowledge and belief and in accordance with the applicable professional standard of
30 care:

31 (i) The plans were reviewed by the affiant who is duly authorized to perform plan
32 review pursuant to this subsection and who holds the appropriate license or
33 certifications and insurance coverage and insurance coverage stipulated in this
34 subsection; and

1 (ii) The plans comply with the state's minimum fire safety standards in effect which
2 were adopted pursuant to this chapter and, where applicable, the state's minimum
3 accessibility standards adopted pursuant to Chapter 3 of Title 30.

4 (F) All private professional providers providing plan review services pursuant to this
5 subsection shall secure and maintain insurance coverage for professional liability
6 (errors and omissions) insurance. The limits of such insurance shall be not less than \$1
7 million per claim and \$1 million in aggregate coverage. Such insurance may be a
8 practice policy or project-specific coverage. If the insurance is a practice policy, it shall
9 contain prior acts coverage for the private professional provider. If the insurance is
10 project-specific, it shall continue in effect for two years following the issuance of the
11 certificate of final completion for the project. The state fire marshal, the proper local
12 fire marshal, state inspector, or designated code official may establish, for private
13 professional providers working within their respective jurisdictions specified by this
14 chapter, a system of registration listing the private professional providers within their
15 areas of competency and verifying compliance with the insurance requirements of this
16 subsection.

17 (G) The private professional provider shall be empowered to perform any plan review
18 required by the state fire marshal, the proper local fire marshal, state inspector, or
19 designated code official, regardless if the plan review is required by this subsection or
20 by local county or municipal ordinance, provided that the plan review is within the
21 scope of such private professional provider's area of expertise and competency. This
22 subsection shall not apply to hospitals, ambulatory health care centers, nursing homes,
23 jails, penal institutions, airports, buildings or structures that impact national or state
24 homeland security, or any building defined as a high-rise building in the State Minimum
25 Standards Code, provided that interior tenant build-out projects within high-rise
26 buildings are not exempt from this subsection, or plans related to Code Section 25-2-16
27 or 25-2-17 or Chapter 8, 9, or 10 of this title.

28 (H)(i) The permit applicant shall submit a copy of the private professional provider's
29 plan review report to the state fire marshal, the proper local fire marshal, state
30 inspector, or designated code official. Such plan review report shall include at a
31 minimum all of the following:

32 (I) The affidavit of the private professional provider required pursuant to this
33 subsection;

34 (II) The applicable fees required for permitting;

1 (III) Other documents deemed necessary due to unusual construction or design,
2 smoke removal systems where applicable with engineering analysis, and additional
3 documentation required where performance based code options are used; and

4 (IV) Any documents required by the state fire marshal, the proper local fire
5 marshal, state inspector, or designated code official to determine that the permit
6 applicant has secured all other governmental approvals required by law.

7 (ii) No more than 30 business days after receipt of a permit application and the
8 private professional provider's plan review report required pursuant to this subsection,
9 the state fire marshal, the proper local fire marshal, state inspector, or designated code
10 official shall issue the requested permit or provide written notice to the permit
11 applicant identifying the specific plan features that do not comply with the applicable
12 codes or standards, as well as the specific reference to the relevant requirements. If
13 the state fire marshal, the proper local fire marshal, state inspector, or designated code
14 official does not provide a written notice of the plan deficiencies within the prescribed
15 30 day period, the permit application shall be deemed approved as a matter of law and
16 the permit shall be issued by the state fire marshal, the proper local fire marshal, state
17 inspector, or designated code official on the next business day.

18 (iii) If the state fire marshal, the proper local fire marshal, state inspector, or
19 designated code official provides a written notice of plan deficiencies to the permit
20 applicant within the prescribed 30 day period, the 30 day period shall be tolled
21 pending resolution of the matter. To resolve the plan deficiencies, the permit
22 applicant may elect to dispute the deficiencies pursuant to this chapter, the
23 promulgated rules and regulations adopted thereunder, or, where appropriate for
24 existing buildings, the local governing authority's appeals process or the permit
25 applicant may submit revisions to correct the deficiencies.

26 (iv) If the permit applicant submits revisions, the state fire marshal, the proper local
27 fire marshal, state inspector, or designated code official shall have the remainder of
28 the tolled 30 day period plus an additional five business days to issue the requested
29 permit or to provide a second written notice to the permit applicant stating which of
30 the previously identified plan features remain in noncompliance with the applicable
31 codes or standards, with specific reference to the relevant requirements. If the state
32 fire marshal, the proper local fire marshal, state inspector, or designated code official
33 does not provide the second written notice within the prescribed time period, the
34 permit shall be issued by the state fire marshal, the proper local fire marshal, state
35 inspector, or designated code official on the next business day.

1 (v) If the state fire marshal, the proper local fire marshal, state inspector, or
2 designated code official provides a second written notice of plan deficiencies to the
3 permit applicant within the prescribed time period, the permit applicant may elect to
4 dispute the deficiencies pursuant to this chapter, the rules and regulations promulgated
5 thereunder, or, where applicable for existing buildings, the local governing authority's
6 appeals process or the permit applicant may submit additional revisions to correct the
7 deficiencies. For all revisions submitted after the first revision, the state fire marshal,
8 the proper local fire marshal, state inspector, or designated code official shall have an
9 additional five business days to issue the requested permit or to provide a written
10 notice to the permit applicant stating which of the previously identified plan features
11 remain in noncompliance with the applicable codes or standards, with specific
12 reference to the relevant requirements.

13 (I) The state fire marshal may provide for the prequalification of private professional
14 providers who may perform plan reviews pursuant to this subsection by rule or
15 regulation authorized in Code Section 25-2-4. In addition, any local fire marshal, state
16 inspector, or designated code official may provide for the prequalification of private
17 professional providers who may perform plan reviews pursuant to this subsection;
18 however, no additional local ordinance implementing prequalification shall become
19 effective until notice of the proper local fire marshal, state inspector, or designated code
20 official's intent to require prequalification and the specific requirements for
21 prequalification have been advertised in the newspaper in which the sheriff's
22 advertisements for that locality are published. The ordinance implementing
23 prequalification shall provide for evaluation of the qualifications of a private
24 professional provider only on the basis of the private professional provider's expertise
25 with respect to the objectives of this subsection, as demonstrated by the private
26 professional provider's experience, education, and training. Such ordinance may
27 require a private professional provider to hold additional certifications, provided that
28 such certifications are required by ordinance or state law for plan review personnel
29 currently directly employed by such local governing authority.

30 (J) Nothing in this subsection shall be construed to limit any public or private right of
31 action designed to provide protection, rights, or remedies for consumers.

32 (K) If the state fire marshal, the proper local fire marshal, state inspector, or designated
33 code official determines that the building construction or plans do not comply with the
34 applicable codes or standards, the state fire marshal, the proper local fire marshal, state
35 inspector, or designated code official may deny the permit or request for a certificate
36 of occupancy or certificate of completion, as appropriate, or may issue a stop-work

order for the project or any portion thereof as provided by law or rule or regulation, after giving notice and opportunity to remedy the violation, if the state fire marshal, the proper local fire marshal, state inspector, or designated code official determines that noncompliance exists with state laws, adopted codes or standards, or local ordinances, provided that:

(i) The state fire marshal, the proper local fire marshal, state inspector, or designated code official shall be available to meet with the private professional provider within two business days to resolve any dispute after issuing a stop-work order or providing notice to the applicant denying a permit or request for a certificate of occupancy or certificate of completion; and

(ii) If the state fire marshal, the proper local fire marshal, state inspector, or designated code official and the private professional provider are unable to resolve the dispute, the matter shall be referred to the local enforcement agency's board of appeals, except as provided in Code Section 25-2-12 and appeals for those proposed buildings classified under paragraph (1) of subsection (b) of Code Section 25-2-13 or any existing building under the specific jurisdiction of the state fire marshal's office shall be made to the state fire marshal and further appeal shall be under Code Section 25-2-10.

(L) The state fire marshal, the proper local fire marshal, state inspector, local government, designated code official enforcement personnel, or agents of the governing authority shall be immune from liability to any person or party for any action or inaction by an owner of a building or by a private professional provider or its duly authorized representative in connection with building plan review services by private professional providers as provided in this subsection.

(M) Except as provided in this paragraph, no proper local fire marshal, state inspector, or designated code official shall adopt or enforce any rules, procedures, policies, or standards more stringent than those prescribed in this subsection related to private professional provider services.

(N) Nothing in this subsection shall limit the authority of the state fire marshal, the proper local fire marshal, state inspector, or designated code official to issue a stop-work order for a building project or any portion of such project, as provided by law or rule or regulation authorized pursuant to Code Section 25-2-4, after giving notice and opportunity to remedy the violation, if the official determines that a condition on the building site constitutes an immediate threat to public safety and welfare.

(O) When performing building code plan reviews related to determining compliance with the Georgia State Minimum Standard Codes most recently adopted by the

Department of Community Affairs, the state's minimum fire safety standards adopted by the safety fire marshal, or the state's minimum accessibility standards pursuant to Chapter 3 of Title 30, a private professional provider is subject to the disciplinary guidelines of the applicable professional licensing board with jurisdiction over such private professional provider's license or certification under Chapters 4 and 15 of Title 43, as applicable. Any complaint processing, investigation, and discipline that arise out of a private professional provider's performance of the adopted building, fire safety, or accessibility codes or standards plan review services shall be conducted by the applicable professional licensing board or as allowed by state rule or regulation. Notwithstanding any disciplinary rules of the applicable professional licensing board with jurisdiction over such private professional provider's license or certification under Chapters 4 and 15 of Title 43, the state fire marshal, the proper local fire marshal, state inspector, or designated code official enforcement personnel may decline to accept building plan reviews submitted by any private professional provider who has submitted multiple reports which required revisions due to negligence, noncompliance, or deficiencies."

SECTION 3.

This Act shall become effective on January 1, 2007.

SECTION 4.

All laws and parts of laws in conflict with this Act are repealed.